

Message Text

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DRAFTED BY EB/CSB/BP:RJBUSHNELL:VJW

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JUSTICE - DROSENTHAL (SUBST)

L/EB - TTALLERICO (INFO)

EUR/RPE - JMCCARTHY

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FM SECSTATE WASHDC

TO AMEMBASSY BONN

AMEMBASSY PARIS

USMISSION USBERLIN

INFO USMISSION OECD PARIS

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UNCLAS STATE 153098

E.O. 11652: N/A

TAGS: ETRD, GW, FR, OECD

SUBJECT: ANTITRUST: GRAND JURY INDICTMENTS IN CHEMICAL
INDUSTRY

1. THE JUSTICE DEPARTMENT HAS INFORMED THE DEPARTMENT
THAT A FEDERAL GRAND JURY RECENTLY INDICTED THREE IMPORTING
COMPANIES AND FOUR INDIVIDUALS ON CHARGES OF CONSPIRING
TO FIX THE PRICES OF TWO IMPORTED CHEMICAL PRODUCTS IN
THE UNITED STATES IN VIOLATION OF SECTION 1 OF THE
SHERMAN ANTITRUST ACT.

2. THE TWO PRODUCTS -- MONOCHLOROACETIC ACID (MCA) AND
SODIUM MONOCHLOROACETATE (SMCA), -- WHICH ARE RELATED,
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ARE USED IN THE MANUFACTURE OF OTHER CHEMICAL PRODUCTS

SUCH AS HERBICIDES AND PHARMACEUTICALS. THE INDICTMENT CHARGES THAT FROM JANUARY, 1972 UNTIL DECEMBER, 1973 THE DEFENDANTS AND CERTAIN UNNAMED CO-CONSPIRATORS ENGAGED IN AND EFFECTUATED A CONSPIRACY TO RAISE AND FIX THE PRICES OF MCA AND SMCA SOLD IN THE UNITED STATES. AS A RESULT OF THE CONSPIRACY, COMPETITION IN THE SALE OF MCA AND SMCA HAS BEEN SERIOUSLY REDUCED AND THEIR RESPECTIVE PRICES HAVE BEEN FIXED AT NONCOMPETITIVE LEVELS.

3. THE CORPORATE DEFENDANTS ARE AMERICAN HOECHST CORPORATION, A DELAWARE CORPORATION AND A WHOLLY OWNED SUBSIDIARY OF FARBWERKE HOECHST A.G., A CORPORATION WITH ITS PRINCIPAL PLACE OF BUSINESS IN THE FEDERAL REPUBLIC OF GERMANY; RHODIA INC., A NEW YORK CORPORATION AND A WHOLLY OWNED SUBSIDIARY OF RHONE-POULENC S.A., WITH ITS PRINCIPAL PLACE OF BUSINESS IN FRANCE; AND ROBECO CHEMICALS, INC., A NEW YORK CORPORATION.

4. ADDITIONALLY, TWO OFFICIALS OF AMERICAN HOECHST CORPORATION WERE INDICTED -- GERHARD KUHFAHL AND JOHN B. BRANDRETH -- AS WERE TWO OFFICIALS OF RHODIA INC. -- HENRY A. MOLTENI AND THOMAS M. LAHIFF.

5. MAXIMUM PENALTIES UPON CONVICTION ARE A FINE OF 50,000 DOLLARS FOR EACH CORPORATE DEFENDANT AND A LIKE AMOUNT AND UP TO ONE YEAR IN JAIL FOR EACH INDIVIDUAL DEFENDANT.

6. ACTION: A) US MISSION BERLIN IS REQUESTED TO INFORM THE FRG FORMALLY OF THIS INDICTMENT, REFERRING TO THE OECD NOTIFICATION PROCEDURE ADOPTED OCTOBER 5, 1967. THE NOTIFICATION SHOULD BE MADE TO: PROF. DR. E. GUNTHER, PRESIDENT, FEDERAL CARTEL OFFICE, MEHRINGDAMM 129, BERLIN.

-- B) EMBASSY PARIS IS REQUESTED TO MAKE A SIMILAR NOTIFICATION TO THE MINISTRY OF FOREIGN AFFAIRS, 37 QUAI D'ORSAY, 75007, WITH A COPY TO THE FRENCH DELEGATION TO OECD, 21, RUE OCTAVE-FEUILLET, 75016, PARIS.

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-- C) PLEASE REPORT ANY SIGNIFICANT HOST GOVERNMENT REACTIONS. INGERSOLL

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